

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION**

PEGGY HILL

PETITIONER

VS.

4:06CR00281-1 GTE  
4:08CV00274 GTE

UNITED STATES OF AMERICA

RESPONDENT

**ORDER**

Petitioner has filed a *pro se* Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255. (Docket entry #214.) Petitioner alleges that her trial counsel was ineffective in failing to file a direct appeal pursuant to her instructions.

On June 23, 2008 United States District Judge G. Thomas Eisele entered an Order setting Petitioner's Motion for an evidentiary hearing on August 5, 2008, and referring the issue of appointment of counsel to the Court. (Docket entries #227 and #228.) Because an evidentiary hearing was warranted, the Court "must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A." *See* Rule 8(c) of the Rules Governing Section 2255 Proceedings. The Criminal Justice Act, 18 U.S.C. § 3006A, "provides for the appointment of counsel and the assistance of other individuals, such as expert witnesses, for indigent defendants." *See Green v. United States*, 323 F.3d 1100, 1104 (8<sup>th</sup> Cir. 2003).

Throughout the underlying criminal case, Petitioner was represented by retained counsel. Thus, the Court cannot determine whether Petitioner qualifies for court-appointed counsel under 18 U.S.C. § 3006A. The Court will therefore direct the Clerk to mail a financial affidavit to Petitioner, which she should promptly execute and return to the Clerk for filing.

IT IS THEREFORE ORDERED THAT the Clerk of the Court is directed to mail to Petitioner a form CJA23 Financial Affidavit. Petitioner should return the fully-completed Financial Affidavit for filing **on or before July 7, 2008.**

Dated this 24<sup>th</sup> day of June, 2008.

  
UNITED STATES MAGISTRATE JUDGE